

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

HOUSE BILL 353

**49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009**

INTRODUCED BY

Jim R. Trujillo

AN ACT

RELATING TO VOLUNTEER FIREFIGHTERS RETIREMENT; REQUIRING  
CERTAIN ADMINISTRATIVE PROCEDURES; CHANGING THE REQUIREMENTS  
FOR ESTABLISHING SERVICE CREDIT; AUTHORIZING A DEPENDENT CHILD  
TO BE DESIGNATED AS A BENEFICIARY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 10-11A-2 NMSA 1978 (being Laws 1983,  
Chapter 263, Section 2, as amended) is amended to read:

"10-11A-2. DEFINITIONS.--As used in the Volunteer  
Firefighters Retirement Act:

A. "association" means the public employees  
retirement association;

B. "board" means the retirement board of the  
association;

C. "fire department" means ~~[any volunteer]~~ a fire

underscored material = new  
[bracketed material] = delete

1 department with volunteer members that is certified by the fire  
2 marshal [~~bureau of the insurance~~] division of the public  
3 regulation commission;

4 D. "fund" means the volunteer firefighters  
5 retirement fund; and

6 E. "member" means [~~any~~] a volunteer nonsalaried  
7 firefighter who is listed as an active member on the rolls of a  
8 fire department and whose first year of service credit was  
9 accumulated during or after the year [~~he~~] the member attained  
10 the age of sixteen. A volunteer firefighter who receives  
11 reimbursement for personal out-of-pocket costs shall not be  
12 considered a salaried firefighter."

13 Section 2. Section 10-11A-4 NMSA 1978 (being Laws 1983,  
14 Chapter 263, Section 4) is amended to read:

15 "10-11A-4. ADMINISTRATION OF THE VOLUNTEER FIREFIGHTERS  
16 RETIREMENT ACT, PROGRAM AND FUNDS BY THE [~~PUBLIC EMPLOYEES'~~  
17 ~~RETIREMENT~~] BOARD--ANNUAL ACTUARIAL EVALUATION.--

18 A. The provisions of the Volunteer Firefighters  
19 Retirement Act and the volunteer firefighters retirement  
20 program authorized under that act shall be administered by the  
21 board. The provisions of law relating to the administration  
22 and investment of retirement funds administered by the board  
23 shall apply to all funds transferred and paid into the  
24 [~~volunteer firefighters retirement~~] fund. In its  
25 administration of the volunteer firefighters retirement

.175708.1

underscored material = new  
[bracketed material] = delete

1 program, the board is authorized to promulgate rules and  
2 regulations.

3 B. The board shall provide for an annual actuarial  
4 evaluation of the [~~volunteer firefighters retirement~~] fund and  
5 shall make recommendations to the legislature for any changes  
6 necessary to maintain the actuarial soundness of the fund.

7 C. The association shall remove a member's  
8 information file from the association's active database and  
9 enter it into an inactive database if qualifying documentation  
10 for the member has not been provided to the association for  
11 five consecutive years. A member's information file that has  
12 been entered into an inactive database shall not be included in  
13 the board's annual actuarial evaluation of the fund. The  
14 association shall return a member's information file to the  
15 association's active database if the association receives new  
16 qualifying documentation for the member."

17 Section 3. Section 10-11A-5 NMSA 1978 (being Laws 1983,  
18 Chapter 263, Section 5) is amended to read:

19 "10-11A-5. RETIREMENT BENEFITS--ELIGIBILITY.--

20 A. Any member who attains the age of fifty-five  
21 years and has twenty-five years or more of service credit shall  
22 be eligible to receive a retirement annuity of two hundred  
23 dollars (\$200), payable monthly from the fund during the  
24 remainder of [~~his~~] the member's life.

25 B. Any member who attains the age of fifty-five

.175708.1

underscoring material = new  
[bracketed material] = delete

1 years and has at least ten but less than twenty-five years or  
2 more of service credit shall be eligible to receive a  
3 retirement annuity of one hundred dollars (\$100), payable  
4 monthly from the fund during the remainder of [~~his~~] the  
5 member's life.

6 C. Any member who ceases to be a volunteer  
7 nonsalaried firefighter after completing at least ten but less  
8 than twenty-five years of service credit is eligible to receive  
9 upon attaining the age of fifty-five years a retirement annuity  
10 of one hundred dollars (\$100), payable monthly from the fund  
11 during the remainder of [~~his~~] the member's life.

12 D. Any member who ceases to be a volunteer  
13 nonsalaried firefighter after completing twenty-five years of  
14 service credit is eligible to receive upon attaining the age of  
15 fifty-five years a retirement annuity of two hundred dollars  
16 (\$200), payable monthly from the fund during the remainder of  
17 [~~his~~] the member's life.

18 E. Any member who qualifies for and receives a  
19 retirement annuity pursuant to this section may continue as an  
20 active member on the rolls of a fire department. However, such  
21 member shall not accrue additional service credit for the  
22 purpose of increasing the amount of [~~his~~] the member's  
23 retirement annuity."

24 Section 4. Section 10-11A-6 NMSA 1978 (being Laws 1983,  
25 Chapter 263, Section 6, as amended) is amended to read:

.175708.1

1 "10-11A-6. DETERMINATION OF SERVICE CREDIT.--

2 A. A member may claim one year of service credit  
3 for each year in which a fire department certifies that the  
4 member:

5 (1) attended [~~seventy-five~~] fifty percent of  
6 all scheduled fire drills for which the fire department held  
7 the member responsible to attend;

8 (2) attended [~~seventy-five~~] fifty percent of  
9 all scheduled business meetings for which the fire department  
10 held the member responsible to attend; and

11 (3) participated in at least fifty percent of  
12 all emergency response calls for which the fire department held  
13 the member responsible to attend.

14 B. The chief of each fire department shall submit  
15 to the association by March 31 of each year [~~the records of~~  
16 ~~attendance of members for emergency response calls, fire drills~~  
17 ~~and business meetings during~~] documentation of the  
18 qualifications of each member for the preceding calendar year;  
19 provided that the chief shall:

20 (1) submit [~~such records~~] the documentation on  
21 forms provided by the association;

22 (2) acknowledge the truth of the records under  
23 oath before a notary public; and

24 (3) have the notarized forms signed by the  
25 mayor, if distributions from the fire protection fund for the

.175708.1

underscored material = new  
[bracketed material] = delete

1 fire department are made to an incorporated municipality, or  
2 the ~~[chairman]~~ chair of the county commission, if distributions  
3 from the fire protection fund for the fire department are made  
4 to ~~[an independent]~~ a county fire district.

5 C. For service credit that has been earned, but not  
6 credited pursuant to Subsection B of this section, a member may  
7 post or adjust service credit earned for one or more calendar  
8 years ~~[prior to January 1, 2005, but for not more than five~~  
9 ~~years of additional service credit, by filing with the~~  
10 ~~association no later than December 31, 2005]~~ beginning on or  
11 after January 1, 1979; provided that the member shall:

12 ~~[(1) a copy of the state fire marshal's records~~  
13 ~~or the records of the member's fire department indicating the~~  
14 ~~member's record of attendance for emergency calls, fire drills~~  
15 ~~and business meetings during the calendar years for which~~  
16 ~~service credit is claimed; and~~

17 ~~(2)]~~ (1) file with the association a completed  
18 "Corrected Qualification Record" or "Adjusted Qualification  
19 Record" as prescribed by the board;

20 (2) acknowledge the truth of the records under  
21 oath before a notary public; and

22 (3) have the notarized forms signed by the  
23 mayor, if distributions from the fire protection fund for the  
24 fire department are made to an incorporated municipality, or  
25 the chair of the county commission, if distributions from the

.175708.1

underscoring material = new  
[bracketed material] = delete

1 fire protection fund for the fire department are made to a  
2 county fire district.

3 ~~[D. Failure to timely provide the records required~~  
4 ~~pursuant to Subsection C of this section shall result in the~~  
5 ~~loss of the member's service credit not credited pursuant to~~  
6 ~~Subsection B of this section.]~~

7 D. The association may request the fire marshal  
8 division of the public regulation commission to verify member  
9 qualifications submitted to the association."

10 Section 5. Section 10-11A-7 NMSA 1978 (being Laws 1983,  
11 Chapter 263, Section 7) is amended to read:

12 "10-11A-7. RETIREMENT ANNUITY--SURVIVING [~~SPOUSE~~]  
13 BENEFICIARY.--A member may designate a spouse or dependent  
14 child as a beneficiary. In the event a retirement annuitant  
15 dies, the surviving [~~spouse~~] beneficiary shall receive an  
16 annuity equal to two-thirds of the retirement annuity being  
17 paid to the retirement annuitant at the time of death; provided  
18 that the annuity paid to a beneficiary spouse shall cease upon  
19 the surviving spouse's marriage or death and the annuity paid  
20 to a beneficiary dependent child shall cease upon the child  
21 reaching eighteen years of age or upon the child's death,  
22 whichever comes first."

23 Section 6. A new section of the Volunteer Firefighters  
24 Retirement Act is enacted to read:

25 "[NEW MATERIAL] RETROACTIVITY--APPLICATION OF 2003 LAW.--

.175708.1

